

Part 2

Special Use Permitting General Provisions

32B-10-201 Commission's power to issue special use permit.

- (1) Before a person may purchase, use, store, sell, offer for sale, allow consumption, or manufacture an alcoholic product in a manner that requires a special use permit, the person shall first obtain a special use permit in accordance with this chapter.
- (2)
 - (a) The commission may issue a special use permit for the purchase, use, storage, sale, offer for sale, consumption, or manufacture of an alcoholic product for a limited purpose specified by this chapter and the rules of the commission.
 - (b) A special use permit authorizes the special use permittee to purchase, use, store, sell, offer for sale, consume, or manufacture an alcoholic product only in the quantity, in a type, and for a purpose stated in the special use permit.

Enacted by Chapter 276, 2010 General Session

32B-10-202 Application for special use permit -- Qualifications.

- (1) To obtain a special use permit, a person shall submit to the department:
 - (a) a written application in a form prescribed by the department;
 - (b) a nonrefundable application fee, if required by the relevant part of this chapter applicable to the type of special use permit for which the person applies;
 - (c) an initial permit fee:
 - (i) if required by the relevant part of this chapter applicable to the type of special use permit for which the person applies; and
 - (ii) that is refundable if a special use permit is not issued;
 - (d) a one-time special use permit fee if required by a section of this chapter:
 - (i) applicable to the type of special use permit for which the person applies; and
 - (ii) that is refundable if a special use permit is not issued;
 - (e) a statement of the purpose for which the person applies for the special use permit;
 - (f) a description of the types of alcoholic product the person intends to use under authority of the special use permit;
 - (g) written consent of the local authority;
 - (h) if required, a bond as provided in Section 32B-10-205;
 - (i) a floor plan of the immediate area within the premises in which the person proposes that an alcoholic product will be used, mixed, stored, sold, or consumed if required by the relevant part of this chapter applicable to the type of special use permit for which the person applies;
 - (j) a signed consent form stating that the special use permittee will permit any authorized representative of the commission, department, or any other law enforcement officer to have unrestricted right to enter the special use permittee's premises;
 - (k) if the person is an entity, proper verification evidencing that a person who signs the application is authorized to sign on behalf of the entity; and
 - (l) any other information the commission or department may require.
- (2)
 - (a) The commission may issue a special use permit only to a person who qualifies as follows:
 - (i) the commission may issue a religious wine use permit to a religious organization;

- (ii) the commission may issue an industrial or manufacturing use permit to a person engaged in an industrial or manufacturing pursuit;
 - (iii) the commission may issue a scientific or educational use permit to a person engaged in a scientific or educational pursuit; and
 - (iv) the commission may issue a public service permit to an operator of an airline, railroad, or other public conveyance.
- (b) The commission may not issue a special use permit to a person who is disqualified under Section 32B-1-304.
- (c) If a person to whom a special use permit is issued no longer possesses the qualifications required by this title for obtaining that special use permit, the commission may suspend or revoke that special use permit.

Enacted by Chapter 276, 2010 General Session

32B-10-203 Renewal of special use permit.

- (1) A special use permit expires on December 31 of each year unless otherwise provided on the special use permit.
- (2) To renew a renewable special use permit, a person shall submit a completed renewal application to the department:
- (a) no later than November 30; and
 - (b) in a form prescribed by the department.
- (3) Failure to meet the renewal requirements results in an automatic forfeiture of the special use permit, effective on the date the existing special use permit expires.

Enacted by Chapter 276, 2010 General Session

32B-10-204 Duties of commission and department before issuing special use permit.

- (1)
- (a) Before the commission issues a special use permit, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether a special use permit should be issued.
 - (b) The department shall forward the information it gathers and its recommendations to the commission to aid in the commission's determination.
- (2) Before issuing a special use permit, the commission shall:
- (a) determine that the person filed a complete application and is in compliance with:
 - (i) Section 32B-10-202; and
 - (ii) the relevant part under this chapter that applies to the special use permit for which the person is applying;
 - (b) determine that the person is not disqualified under Section 32B-1-304;
 - (c) consider the physical characteristics of the premises where an alcoholic product is proposed to be used, mixed, stored, sold, offered for sale, or furnished such as:
 - (i) the condition of the premises;
 - (ii) public visibility; and
 - (iii) safety considerations;
 - (d) consider the person's ability to properly use the special use permit within the requirements of this title and the commission rules including:
 - (i) the proposed use of the special use permit; and
 - (ii) the nature and type of person making use of the special use permit;

- (e) consider specific factors regarding the specific type of special use permit sought by the person;
- (f) approve of the location and equipment used by the person to distill alcohol for experimental testing purposes or use as a fuel; and
- (g) consider any other factor the commission considers necessary.

Enacted by Chapter 276, 2010 General Session

32B-10-205 Bond for special use permit.

- (1) A special use permittee shall post a cash bond or surety bond only if the relevant part under this chapter for the type of special use permit requires posting of a bond.
- (2)
 - (a) If a special use permittee is required to post a bond as provided in Subsection (1), the special use permittee shall procure and maintain the bond for as long as the special use permittee continues to operate under the special use permit.
 - (b) A bond required under this section shall be:
 - (i) in a form approved by the attorney general; and
 - (ii) conditioned upon the special use permittee's faithful compliance with this title and the rules of the commission.
- (3) If a surety bond posted by a special use permittee under this section is canceled due to a special use permittee's negligence, the department may assess a \$300 reinstatement fee.
- (4) No part of a bond posted by a special use permittee under this section may be withdrawn during the period that the special use permit is in effect.
- (5)
 - (a) A bond posted by a special use permittee under this section may be forfeited if the special use permit is revoked.
 - (b) Notwithstanding Subsection (5)(a), the department may make a claim against a bond posted by a special use permittee for money owed the department under this title without the commission first revoking the special use permit.

Enacted by Chapter 276, 2010 General Session

32B-10-206 General operational requirements for special use permit.

- (1)
 - (a) A special use permittee and staff of the special use permittee shall comply with this title and rules of the commission, including the relevant part of the chapter that applies to the type of special use permit held by the special use permittee.
 - (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
 - (i) a special use permittee;
 - (ii) individual staff of a special use permittee; or
 - (iii) a special use permittee and staff of the special use permittee.
 - (c) The commission may suspend or revoke a special use permit with or without cause.
- (2)
 - (a) If there is a conflict between this part and the relevant part under this chapter for the specific type of special use permit, the relevant part under this chapter governs.
 - (b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," a special use permittee may only purchase, use, store, sell, offer for sale, allow consumption, or

manufacture an alcoholic product authorized for the special use permit that is held by the special use permittee.

- (c) Notwithstanding that this part or the relevant part under this chapter for the type of special use permit held by a special use permittee refers to "special use permittee," a person involved in the purchase, use, store, sell, offer for sale, allow consumption, or manufacture of an alcoholic product for which the special use permit is issued is subject to the same requirement or prohibition.
- (3)
 - (a) A special use permittee shall make and maintain a record, as required by commission rule, of any alcoholic product purchased, used, sold, or manufactured.
 - (b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (3).
- (4)
 - (a) Except as otherwise provided in this title, a special use permittee may not purchase liquor except from a state store or package agency.
 - (b) A special use permittee may transport liquor purchased by the special use permittee in accordance with this Subsection (4) from the place of purchase to the special use permittee's premises.
 - (c) A special use permittee shall purchase liquor at prices set by the commission.
 - (d) When authorized by a special use permit, a special use permittee may purchase and receive an alcoholic product directly from a manufacturer for a purpose that is industrial, educational, scientific, or manufacturing.
 - (e) A health care facility may purchase and receive an alcoholic product directly from a manufacturer for use at the health care facility.
- (5) A special use permittee may not use, mix, store, sell, offer for sale, furnish, manufacture, or allow consumption of an alcoholic product in a location other than as designated in a special use permittee's application.
- (6) Except as otherwise provided, a special use permittee may not sell, offer for sale, or furnish an alcoholic product to:
 - (a) a minor;
 - (b) a person actually, apparently, or obviously intoxicated;
 - (c) a known interdicted person; or
 - (d) a known habitual drunkard.
- (7) A special use permittee may not employ a minor to handle an alcoholic product.
- (8)
 - (a) The location specified in a special use permit may not be transferred from one location to another location, without prior written approval of the commission.
 - (b) A special use permittee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the permit to another person whether for monetary gain or not.
- (9) A special use permittee may not purchase, use, mix, store, sell, offer for sale, furnish, consume, or manufacture an alcoholic product for a purpose other than that authorized by the special use permit.
- (10) The commission may prescribe by policy or rule consistent with this title, the general operational requirements of a special use permittee relating to:
 - (a) physical facilities;
 - (b) conditions of purchase, use, storage, sale, consumption, or manufacture of an alcoholic product;
 - (c) purchase, storage, and sales quantity limitations; and

(d) other matters considered appropriate by the commission.

Enacted by Chapter 276, 2010 General Session

32B-10-207 Notifying department of change of ownership.

The commission may suspend or revoke a special use permit if a special use permittee does not immediately notify the department of a change in:

- (1) ownership of the permittee's business;
- (2) for a corporate owner, the:
 - (a) corporate officers or directors; or
 - (b) shareholders holding at least 20% of the total issued and outstanding stock of the corporation;or
- (3) for a limited liability company:
 - (a) managers; or
 - (b) members owning at least 20% of the limited liability company.

Enacted by Chapter 276, 2010 General Session